

REMARKS**I. Prosecution History**

Claims 1-78 were originally presented for examination on December 13, 2001. In a first office action, claims 1, 2, 8-12, 19-20, 21-23, 29-32, 38-39, 40-41, 47-51, 57-58, 70-71, 59-61, 67-68 and 77-78 stood rejected under 35 U.S.C. §102(e) as being anticipated by *Anderson, Jr. et al* (US Patent No. 6,578,203). Claims 3-7, 14-18, 24-28, 33-36, 42-45, 52-56, 62-66 and 72-75 stood rejected under 35 U.S.C. §103(a) as being unpatentable over *Anderson, Jr. et al* (US Patent No. 6,578,203) in view of *Narayanaswami* (US Patent No. 6,657,654). In response to the first office action, claims 6, 13, 15, 17/ 23, 25-27, 32-68, 71, and 73-78 were cancelled, and claims 1-5, 7, 9, 10-12, 14, 16, 18-19, 21-22, 24, 28-29, 31, 70 and 72 were amended to place them in better form for allowance. The prior art of record cited against the independent claims was distinguished against the amended claims.

After a second office action dated November 17, 2005, made final, claims 1-5, 7-12, 14, 16, 18-22, 24, 28-31, 70 and 72 were rejected. Applicants submitted an amendment and response, and requested reconsideration. Applicants amended claims 1-3, 5, 7 and 8, and canceled claim 4. Claims 1-3, 5, 7-12, 14, 16, 18-22, 24, 28-31, 69-70, and 72 remained pending in the case.

On March 6, 2006, an advisory action was received from the office indicating that the amendment submitted by Applicant would not be entered because it raised new issues. Applicant filed an RCE on March 15, 2006 and included the un-entered amendment.

A first office action following the RCE filing was received from the office April 17, 2006 wherein claims 1-3, 5, 7-12, 14, 16, 18-22, 24, 28-31, 69, 70 and 72 stood rejected under 35 U.S.C. §103(a) as being unpatentable over *Anderson et al* (US Patent #6,578,203) in view of *Duhault* (US Patent #6,456,334). In response, Applicants filed a reply without amendment again arguing against the 35 U.S.C. §103(a) rejection based on *Anderson et al* in view of *Duhault*.

A Final Office Action, was received on October 20, 2006. The rejection of claims 1, 2, 8-12, 18-22, 29-30, 31, 70 and 72 under 35 U.S.C. 103(a) as being unpatentable over *Anderson, Jr. et al* in view of *Duhault* was maintained. Applicants filed another reply on

December 20, 2006 without amendment. On January 23, 2007, Applicants received an advisory action maintaining the finality of the office action and rejection of the claims as unpatentable over *Anderson, Jr. et al* in view of *Duhault*.

On March 19, 2004, Applicants filed another RCE without amendment, but only including a declaration of Dr. Richard Krukar, which was believed would overcome the rejection.

On June 11, 2007, Applicants received a first Office Action, made Final, wherein the Examiner was of the opinion that Dr. Krukar's declaration was insufficient to overcome the rejection of the claims.

Applicants filed a third Request of Continued Examination (RCE) with a submission that provided substantial amendments, and in fact submitted claim amendments and additional claims believed to finally distinguish their claims from the art of record. In the submission, claims 1, 2, 3, 5, 7, 8 and 18 were amended, claims 4, 6, 9-17, and 19-78 were cancelled, and new claims 79-126 were added. Despite Applicants' incredible, good faith efforts to present claims to which they should have been legally entitled to where they overcame the art of record, and despite Applicants' diligent attempts to prosecute their application in light of the cited art, Claims 1-3, 5, 7-8, 18 and 79-126 now stand "withdrawn" from consideration by Examiner as being directed to a non-elected invention according to the recent detailed action mailed by Examiner and dated 01/25/2008 for which this paper is being submitted in response.

Given Examiner's unilateral decision to withdrawal of all of Applicants' pending claims citing the theory of "constructive election by original presentation", Applicants now submits new claims 127-173 which substantially reflect what was "originally presented" and "constructively elected" with the filing of their patent application on December 13, 2001. These new claims mostly reflect what was originally presented with changes that would normally be acceptable during the prosecution process where support is in the record and the change (amendments) further define or narrow the claims. Applicants also provide a chart for Examiner's convenience (see below) showing the direct correlation of their new claims to, and supported by, what was originally presented by Applicants on December 13, 2001.

Applicants now request reconsideration and allowance of the pending claims in light of the following remarks.

II. New claims summarized and "Originally" supported.

The claims originally presented for examination with filing of the present patent application on December 13, 2001 are being re-submitted with changes that keep them within the letter and spirit of 37 CFR 1.142(b) and MPEP §821.03. On the basis of what was *originally presented* to the patent office on December 13, 2001, which Examiner refers to as the invention "constructively elected by original presentation for prosecution on the merits," Applicants now present new claims 127 through 174 for thorough examination, presented after three (3) separate RCEs and substantial prosecution, but prior to final rejection. No "new matter" has been added, as full support for new claims 127-174 can be found throughout the specification, drawings and, more importantly, within claims 1-78 as originally presented for examination on December 13, 2001.

The following chart shows clear support for new claims 127-174 from the originally presented claims and portions of the specification:

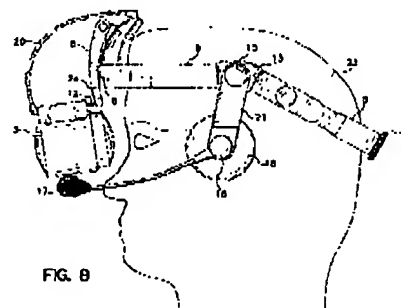
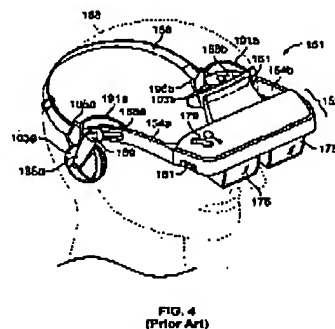
Claim 127	<i>Support in originally presented claim 1 and also page 13, lines 12-24, of the originally presented specification.</i>
Claim 128	<i>Support in originally presented claim 3.</i>
Claim 129	<i>Support in originally presented claim 4.</i>
Claim 130	<i>Support in originally presented claim 5.</i>
Claim 131	<i>Support in originally presented claim 7.</i>
Claim 132	<i>Support in originally presented claim 8 and also page 60, lines 1-7, of the original specification.</i>
Claim 133	<i>Support in originally presented claim 9 and also on page 59, lines 21-28, and pages 60-63 of the original specification.</i>
Claim 134	<i>Support in originally presented claims 10, 11, 19 and 20, and also at page 13, lines 12-24, of the original specification.</i>
Claim 135	<i>Support in originally presented claim 14.</i>
Claim 136	<i>Support in originally presented claim 15.</i>
Claim 137	<i>Support in originally presented claim 16.</i>
Claim 138	<i>Support in originally presented 21 and also at page 13, lines 12-24, of the original specification.</i>
Claim 139	<i>Support in originally presented claim 22 and also at</i>

	<i>page 13, lines 12-24, of the original specification.</i>
Claim 140	<i>Support in originally presented claim 23.</i>
Claim 141	<i>Support in originally presented claims 23 and 25.</i>
Claim 142	<i>Support in originally presented claim 26.</i>
Claim 143	<i>Support in originally presented claim 29 and also on page 60, lines 1-7, of the original specification.</i>
Claim 144	<i>Support in originally presented claim 30 and on page 59, lines 21-28, and pages 60-63 of the original specification.</i>
Claim 145	<i>Support in originally presented claim 31 and also at page 13, lines 12-24, of the original specification.</i>
Claim 146	<i>Support in originally presented claim 33.</i>
Claim 147	<i>Support in originally presented claims 34 and 35.</i>
Claim 148	<i>Support in originally presented claim 36.</i>
Claim 149	<i>Support in originally presented claim 38 and also on page 60, lines 1-7, of the original specification.</i>
Claim 150	<i>Support found in original paragraph 39.</i>
Claim 151	<i>Support in originally presented claim 40, and also at page 13, lines 12-24, of the original specification.</i>
Claim 152	<i>Support in originally presented claim 40.</i>
Claim 153	<i>Support from originally presented claim 42.</i>
Claim 154	<i>Support from originally presented claim 42.</i>
Claim 155	<i>Support in originally presented claim 44.</i>
Claim 157	<i>Support in originally presented claim 47.</i>
Claim 158	<i>Support found in original claim 48 and on page 59, lines 21-28, and pages 60-63 of the original specification.</i>
Claim 159	<i>Support found in original claims 49 and 50, and also at page 13, lines 12-24, of the original specification.</i>
Claim 160	<i>Support found in originally presented claim 54.</i>
Claim 161	<i>Support found in originally presented Claim 55.</i>
Claim 162	<i>Support in originally presented claim 57.</i>
Claim 163	<i>Support found in originally presented claim 58 and page 59, lines 21-28, and pages 60-63 of the original specification.</i>
Claim 164	<i>Support in originally presented claim 59 and also on page 13, lines 12-24.</i>
Claim 165	<i>Support found in originally presented claim 60 and also page 13, lines 12-24.</i>
Claim 166	<i>Support found in originally presented claim 63.</i>

Claim 167	Support found in originally presented claim 64.
Claim 168	Support found in originally presented claim 65 and page 59, lines 21-28 of the original specification.
Claim 169	Support found in originally presented claim 66 and on page 59, lines 21-28, and pages 60-63 of the original specification.
Claim 170	Support found in originally presented claim 70 and also page 13, lines 12-24.
Claim 171	Support found in originally presented claim 75 and other New applications.
Claim 172	Support found in originally presented claim 73.
Claim 173	Support is found at originally presented claim 74.
Claim 174	Support is found at originally presented claim 75.

III. General Remarks.

Applicants have continued to argue throughout prosecution of their application that *Anderson, Jr. et al* ("*Anderson*") does not teach or suggest a "hand held device" as required and taught by Applicants in their specification and drawings. The fact that *Anderson* teaches a head mounted display cannot be disputed: see issued patents 6,678,203 references to "head Mounted Display" in the title, Figure 4, and throughout the specification including incorporation by reference for its preferred embodiment of U.S. Patent 5,844,656 for "Head Mounted Display with Adjustment Components" issued to Ronazanie et al. This limitation and scope become even clearer when also looking at Figure 4 of the subsequent *Anderson et al* patent, U.S. 7,124,425, wherein *Anderson et al*'s preferred device is further described in detail and illustrated as follows:



The HMD 20 taught by *Ronzani et al*, as shown in Figure 8 above, was specifically adopted and incorporated by reference as the preferred embodiment into the US 6,678,203 *Anderson et al* must also be attached to a person's head 23 during use. As indicated at column 3, lines 39-65 of *Ronzani et al*, a headband (8) is utilized to attach the HMD to a person's head (23). Additionally, *Ronzani et al* points out at column 2, lines 15-17 that it is "a further object of this invention to provide an adjustable HMD that is designed to be comfortably worn over a long period of time".

Thus, the HMD taught by *Ronzani et al* and *Anderson et al* is worn by or attached to a person's head and does not constitute a hand held device during operation. The *Anderson et al* device is not similar to the "hand held" device taught by Applicants, such as PDAs, cellular telephones, hand held televisions, which are specifically held away from a user's face and eyes in a user's hand during use for viewing venue-based data including video at a live entertainment venue.

Language within Applicants' independent claims and their description of hand held devices throughout their description distinguish *Anderson* from their invention: "hand held" versus "head mounted." Furthermore, Applicants overcome *Anderson et al*, alone and when combined the art of record because Applicants' invention as claimed calls for use of authorized hand held devices. Secure transmission and/or access to live venue data is not taught by *Anderson et al* or suggested by *Anderson et al* when combined with the art of record.

Applicants again present the declaration provided by Dr. Richard Krukar, who is well qualified as a person having skill the relevant art, as he confirms that *Anderson et al* is not a hand held device, and would not be capable of operating as a hand held device during its actual use as a viewer. Examiner cannot dispute that Dr. Krukar is well credentialed and his independent analysis is as "one skilled in the relevant art." Dr. Krukar declared that *Anderson et al* taught a venue wide signal broadcasting system and a head mounted display that does not actually function during operation as a hand held display, which is functionality specifically taught by Applicants, because "head mounted displays", like binoculars, are required to be held next to a viewer's eyes in order to be in a user's imaging plane. In contrast, it is generally accepted and therefore inherent given Dr. Krukar's analysis that Hand held devices, like a picture, can actually be held up to 20 inches or so from a viewers face and still be viewed by the user.

IV. Rejection of claim 1 under 35 U.S.C. §103(a) as being unpatentable over *Anderson et al.* in view of *Duhault*.

Anderson et al in view of *Duhault* was the last art rejection of record and is once again addressed herein. *Anderson et al* in view of *Duhault* does not teach or suggest a "hand held device" as required and taught by Applicants in their specification and drawings, and as more particularly provided for in their claims. Furthermore, *Anderson* in view of *Duhault* does not teach the use of "authorized devices." Secure communications including use of authorization codes and security is well supported by Applicants and is not taught by the art.

Furthermore, Dr. Krukar stated in his declaration that *Duhault* teaches a system with multiple tuners that can display one video stream per tuner and that combining *Anderson et al* with the multiple tuners (and associated hardware) of *Duhault* would result in a head mounted display with numerous tuners, and a much larger size and weight than the skilled in the art would be interested in using for portable, live venue entertainment applications. Unlike the multiple tuners required by *Duhault* and the limited head mounted display device format taught by *Anderson et al*, Applicants teach and claim a data transmission capability that can securely transmit video to "authorized hand held devices".

V. Simultaneous display – not "originally presented" for examination and not necessary to Applicants' invention.

Applicants' invention is not dependent on the simultaneous display of more than one video at a time in displays associated with hand held devices for patentability. The ability to display more than one video at a time is most certainly a unique feature, but is certainly not necessary for Applicants to overcome *Anderson et al* in light of the novel and nonobvious distinctions between *Anderson et al* and Applicants' claimed invention: hand held v. head mounted displays and lack of security or use of authorized devices to receive video by *Anderson et al*.

What is more important to Applicants' claimed system and methods are that "authorized hand held device" are used in a live entertainment venue to securely receive live video captured

by in-play cameras located throughout/within a live entertainment venue. Viewing more than one video at a time on a single display, although an advantageous feature offered by Applicants' teaching, *is not* the primary inventive feature originally sought by Applicants or that was originally presented by Applicants in the original claims, or that is now provided in Applicants' current claims that are largely based on the original claims presented for examination; therefore, such a feature, albeit quite novel and useful, is not to be viewed as a limitation Applicants agree to within their pending claims given the other relevant and more important features now presented in independent claims 127-174.

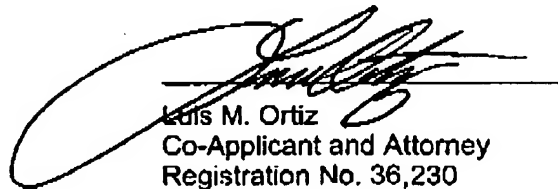
VI. Conclusion

Applicants submit that the pending claims in a condition for allowance. Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. §103 based on these submissions. Reconsideration and early allowance of Applicants' application is also respectfully solicited.

The Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application should there be any outstanding matters that need to be resolved in the present application.

Respectfully submitted,

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